

RECEIVED
CENTRAL FAX CENTERIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 10 2006

Appl. No. : 11/714,275
Applicants : Douglas J. Kelly
Filed : November 14, 2003
TC/A.U. : 3611
Examiner : Cassandra Hope Davis
Docket No. : 04Z9-104790
Customer No. : 30764

Confirmation No. 2042

PETITION TO WITHDRAW HOLDING OF ABANDONMENT OR
ALTERNATIVELY TO REVIVE ABANDONED APPLICATION

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to a Notice of Abandonment, mailed January 4, 2006, holding the above-referenced application abandoned for failure to reply to an Office Action mailed June 14, 2005.

Applicant hereby petitions to withdraw the holding of abandonment in the above-referenced application. In the alternative, Applicant petitions to revive the application, either as being unavoidably abandoned, or as unintentionally abandoned.

I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Applicant requests that the holding of abandonment be withdrawn pursuant to 37 C.F.R. 1.181 based on evidence that a reply was timely submitted. MPEP 711.03(c).

In support of this request and attached herewith, Applicant submits the following:

1. Amendment Submission: transmitted September 13, 2005 (20 pages)
 - a. Facsimile Cover Sheet, including Certificate of Transmission under 37 CFR 1.8 and listing the submitted documents:
 - Amendment (18 pages)
 - Transmittal (1 page)
 - Certificate of Transmission by Facsimile (1 page)
 - b. Amendment Transmittal Letter (Form P11 SMALL/REV09)
 - c. Amendment (18 pages)
2. Facsimile Transmission Report: Acknowledging successful transmission of 20 pages and depicted a portion of the cover page of the amendment submission.
3. Auto-Reply Facsimile Transmission (USPTO): Dated September 13, 2005, acknowledging receipt of 20 pages and depicting the cover page of the amendment submission.

Because a reply was timely submitted, as evidenced above, Applicant respectfully requests the holding of abandonment be withdrawn.

II. ALTERNATIVE REQUEST FOR REVIVAL

If the above request for a withdrawal of abandonment is not granted, Applicant request that the application be revived as unavoidably or unintentionally abandoned.

Applicant did not intend to abandon the application. Indeed, as set forth above Applicant submitted a fully responsive amendment, received transmission confirmation, and received an auto-reply confirmation the USPTO acknowledging receipt of all 20 pages. Therefore, if the holding of abandonment is not withdrawn Applicants respectfully request the application be revived as unavoidably or unintentionally abandoned.

III. CONCLUSION

In view of the foregoing remarks, Applicant requests that the holding of abandonment be withdrawn. In the alternative, Applicant requests that the application be revived, and that the submitted Amendment be considered.

If any fees are due in connection with this filing, please charge the fees to our Deposit Account No. 19-1853.

Date: January 10, 2006

Respectfully Submitted,

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By: 

Kyriacos Tsircou

Registration No. 53,705

333 South Hope Street, 48th Floor
Los Angeles, California 90071
Telephone: (213) 620-1780
Facsimile: (213) 620-1398